

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLAIRE PATRICIA HAVILAND, et
al.,
JOHN MICHAEL REED (3),
ASHLEE NICOLE SWINK (27),
KEVIN DANIEL MULVIHILL (43),
MARIA ANNA JAMES (65),

Defendants.

No. CR 2:24-CR-00570-WLH

[PROPOSED] PROTECTIVE ORDER
REGARDING DISCOVERY CONTAINING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, MEDICAL
INFORMATION, PRIVACY ACT
INFORMATION, AND CONFIDENTIAL
INFORMANT INFORMATION

The Court has read and considered the parties' Stipulation for a Protective Order Regarding Discovery Containing Personal Identifying Information, Medical Information, Privacy Act Information, and Confidential Informant Information, filed by the government and defendants JOHN MICHAEL REED (3), ASHLEE NICOLE SWINK (27), KEVIN DANIEL MULVIHILL (43), and MARIA ANNA JAMES (65), ("defendants") in this matter on or about January 3, 2025, which this Court incorporates by reference into this order, and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as follows:

1 1. The government's discovery in this case relates to
2 defendants' alleged crimes, that is, violations of 18 U.S.C.
3 § 1962(d): Racketeer Influenced and Corrupt Organizations
4 Conspiracy; 21 U.S.C. § 846: Conspiracy to Distribute and to Possess
5 with Intent to Distribute Controlled Substances; 18 U.S.C. § 1349:
6 Conspiracy To Commit Bank Fraud; 18 U.S.C. § 1344: Bank Fraud; 18
7 U.S.C. § 1028A: Aggravated Identity Theft; 21 U.S.C. §§ 841(a)(1),
8 (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(2): Possession with Intent to
9 Distribute and Distribution of Controlled Substances; 18 U.S.C.
10 § 922(g)(1): Felon in Possession of a Firearm and Ammunition; 18
11 U.S.C. § 924(c)(1)(A): Possess a Firearm in Furtherance of a Drug
12 Trafficking Crime; 18 U.S.C. § 1029(a)(3): Possession of Fifteen or
13 More Unauthorized Access Devices; 18 U.S.C. § 2(a): Aiding and
14 Abetting.

15 2. A protective order for the discovery is necessary so that
16 the government can produce to the defense materials regarding
17 confidential informants or cooperating witnesses who participated in
18 the government's investigation and who may testify at trial.
19 Because these materials could be used to identify the confidential
20 informants or cooperating witnesses, the Court finds that the
21 unauthorized dissemination or distribution of the materials may
22 compromise the ability of such persons to participate effectively in
23 future investigations in an undercover capacity and/or may expose
24 him/her to potential safety risks.

25 3. A protective order for the discovery is also necessary so
26 that the government can produce to the defense materials containing
27 third parties' PII and medical information. The Court finds that
28 disclosure of this information without limitation risks the privacy

1 and security of the information's legitimate owners. The medical
2 information at issue may also be subject to various federal laws
3 protecting the privacy of medical records, including provisions of
4 the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.
5 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because
6 the government has an ongoing obligation to protect third parties'
7 PII and medical information, the government cannot produce to
8 defendant an unredacted set of discovery containing this information
9 without this Court entering the Protective Order. Moreover, PII and
10 medical information make up a significant part of the discovery in
11 this case and such information itself, in many instances, has
12 evidentiary value. If the government were to attempt to redact all
13 this information in strict compliance with Federal Rule of Criminal
14 Procedure 49.1, the Central District of California's Local Rules
15 regarding redaction, and the Privacy Policy of the United States
16 Judicial Conference, the defense would receive a set of discovery
17 that would be highly confusing and difficult to understand, and it
18 would be challenging for defense counsel to adequately evaluate the
19 case, provide advice to defendant, or prepare for trial.

20 4. An order is also necessary because the government intends
21 to produce to the defense materials that may contain information
22 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
23 Information"). The Court finds that, to the extent that these
24 materials contain Privacy Act information, disclosure is authorized
25 pursuant to 5 U.S.C. § 552a(b)(11).

26 5. The purpose of this Protective Order is therefore to
27 (a) allow the government to comply with its discovery obligations
28 while protecting this sensitive information from unauthorized

1 dissemination, and (b) provide the defense with sufficient
2 information to adequately represent defendant.

3 6. Accordingly, the discovery that the government will
4 provide to defense counsel in the above-captioned case will be
5 subject to this Protective Order, as follows:

6 a. As used herein, "CI Materials" includes any
7 information relating to a confidential informant's or cooperating
8 witness's prior history of cooperation with law enforcement, prior
9 criminal history, statements, or any other information that could be
10 used to identify a confidential informant or cooperating witness,
11 such as a name, image, address, date of birth, or unique personal
12 identification number, such as a Social Security number, driver's
13 license number, account number, or telephone number.

14 b. As used herein, "PII Materials" includes any
15 information that can be used to identify a person, including a name,
16 address, date of birth, Social Security number, driver's license
17 number, telephone number, account number, email address, or personal
18 identification number.

19 c. "Medical Materials" includes any individually
20 identifiable health information that is connected to a patient's
21 name, address, or other identifying number, such as a Social
22 Security number or Medicare/Medi-Cal number.

23 d. "Confidential Information" refers to any document or
24 information containing CI Materials, PII Materials, or Medical
25 Materials that the government produces to the defense pursuant to
26 this Protective Order and any copies thereof.

27 e. "Defense Team" includes (1) defendant's counsel of
28 record ("defense counsel"); (2) other attorneys who may be consulted

1 regarding the case (including counsel for other parties, and their
2 defense team members, who have been granted access to the
3 Confidential Information); (3) defense investigators who are
4 assisting defense counsel with this case; (4) retained experts or
5 potential experts; and (5) paralegals, legal assistants, and other
6 support staff to defense counsel who are providing assistance on
7 this case. The Defense Team does not include defendant, defendant's
8 family members, or any other associates of defendant.

9 f. The government is authorized to provide defense
10 counsel with Confidential Information marked with the following
11 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
12 ORDER." The government may put that legend on the digital medium
13 (such as DVD or hard drive) or simply label a digital folder on the
14 digital medium to cover the content of that digital folder. The
15 government may also redact any PII contained in the production of
16 Confidential Information.

17 g. If defendant objects to a designation that material
18 contains Confidential Information, the parties shall meet and
19 confer. If the parties cannot reach an agreement regarding
20 defendant's objection, defendant may apply to this Court to have the
21 designation removed.

22 h. Defendant and the Defense Team shall use the
23 Confidential Information solely to prepare for any pretrial motions,
24 plea negotiations, trial, and sentencing hearing in this case, as
25 well as any appellate and post-conviction proceedings.

26 i. The Defense Team shall not permit anyone other than
27 the Defense Team to have possession of Confidential Information,
28 including defendant, while outside the presence of the Defense Team.

1 j. Notwithstanding the above, defendant may see and
2 review CI Materials only in the presence of a member of the Defense
3 Team, who shall ensure that defendant is never left alone with any
4 CI Materials. At the conclusion of any meeting with defendant at
5 which defendant is permitted to view CI Materials, defendant must
6 return any CI Materials to the Defense Team, who shall take all such
7 materials with him or her. Defendant may not take any CI Materials
8 out of the room in which defendant is meeting with the Defense Team.
9 At no time, under no circumstance, will any Confidential Information
10 be left in the possession, custody, or control of defendant,
11 regardless of defendant's custody status.

12 k. Defendant may review PII Materials and Medical
13 Materials only in the presence of a member of the Defense Team, who
14 shall ensure that defendant is never left alone with any PII
15 Materials or Medical Materials. At the conclusion of any meeting
16 with defendant at which defendant is permitted to view PII Materials
17 or Medical Materials, defendant must return any PII Materials or
18 Medical Materials to the Defense Team, and the member of the Defense
19 Team present shall take all such materials with him or her.
20 Defendant may not take any PII Materials or Medical Materials out of
21 the room in which defendant is meeting with the Defense Team.

22 l. Defendant may see and review Confidential Information
23 as permitted by this Protective Order, but defendant may not copy,
24 keep, maintain, or otherwise possess any Confidential Information in
25 this case at any time. Defendant also may not write down or
26 memorialize any data or information contained in the Confidential
27 Information.
28

1 m. The Defense Team may review Confidential Information
2 with a witness or potential witness in this case, including
3 defendant. A member of the Defense Team must be present whenever
4 any CI Materials are being shown to a witness or potential witness.
5 A member of the Defense Team must be present if PII Materials or
6 Medical Materials are being shown to a witness or potential witness.
7 Before being shown any portion of Confidential Information, however,
8 any witness or potential witness must be informed of the
9 requirements of the Protective Order and a Defense Team member must
10 document such. No member of the Defense Team shall permit a witness
11 or potential witness to retain Confidential Information or any notes
12 generated from Confidential Information.

13 n. The Defense Team shall maintain Confidential
14 Information safely and securely, and shall exercise reasonable care
15 in ensuring the confidentiality of those materials by (1) not
16 permitting anyone other than members of the Defense Team, defendant,
17 witnesses, and potential witnesses, as restricted above, to see
18 Confidential Information; (2) not divulging to anyone other than
19 members of the Defense Team, defendant, witnesses, and potential
20 witnesses, the contents of Confidential Information; and (3) not
21 permitting Confidential Information to be outside the Defense Team's
22 offices, homes, vehicles, or personal presence. Materials shall not
23 be left unattended in any vehicle.

24 o. To the extent that defendant, the Defense Team,
25 witnesses, or potential witnesses create notes that contain, in
26 whole or in part, Confidential Information, or to the extent that
27 copies are made for authorized use by members of the Defense Team,
28 such notes, copies, or reproductions become Confidential Information

1 subject to the Protective Order and must be handled in accordance
2 with the terms of the Protective Order.

3 p. The Defense Team shall use Confidential Information
4 only for the litigation of this matter and for no other purpose.
5 Litigation of this matter includes any appeal filed by defendant and
6 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the
7 event that a party needs to file Confidential Information with the
8 Court, the party seeking to file such information shall redact any
9 Confidential Information and make all reasonable attempts to limit
10 the divulging of Confidential Information.

11 q. Any Confidential Information inadvertently produced
12 in the course of discovery prior to entry of the Protective Order
13 shall be subject to the terms of this Protective Order. If
14 Confidential Information was inadvertently produced prior to entry
15 of the Protective Order without being marked "CONFIDENTIAL
16 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
17 shall reproduce the material with the correct designation and notify
18 defense counsel of the error. The Defense Team shall take immediate
19 steps to destroy the unmarked material, including any copies.

20 r. If any Confidential Information contains both CI
21 Materials and another category of Confidential Information, the
22 information shall be handled in accordance with the CI Materials
23 provisions of this Protective Order.

24 s. Confidential Information shall not be used by any
25 member of the defense team, in any way, in any other matter, absent
26 an order by this Court. All materials designated subject to the
27 Protective Order maintained in the Defense Team's files shall remain
28 subject to the Protective Order unless and until such order is

1 modified by this Court. Within 30 days of the conclusion of
2 appellate and post-conviction proceedings, defense counsel shall
3 return CI Materials to the government or certify that such materials
4 have been destroyed. Within 30 days of the conclusion of appellate
5 and post-conviction proceedings, defense counsel shall return all
6 PII Materials or Medical Materials, certify that such materials have
7 been destroyed, or certify that such materials are being kept
8 pursuant to the California Business and Professions Code and the
9 California Rules of Professional Conduct.

10 t. In the event that there is a substitution of counsel
11 prior to when such documents must be returned, new defense counsel
12 must be informed of, and agree in writing to be bound by, the
13 requirements of the Protective Order before defense counsel
14 transfers any Confidential Information to the new defense counsel.
15 New defense counsel's written agreement to be bound by the terms of
16 the Protective Order must be returned to the Assistant U.S. Attorney
17 assigned to the case. New defense counsel then will become the
18 Defense Team's custodian of materials designated subject to the
19 Protective Order and shall then become responsible, upon the
20 conclusion of appellate and post-conviction proceedings, for
21 (1) returning to the government, certifying the destruction of, or
22 retaining pursuant to the California Business and Professions Code
23 and the California Rules of Professional Conduct all PII Materials
24 or Medical Materials; and (2) returning to the government or
25 certifying the destruction of all CI Materials.

1 u. Defense counsel shall advise defendant and all
2 members of the Defense Team of their obligations under the
3 Protective Order and ensure their agreement to follow the Protective
4 Order, prior to providing defendant and members of the Defense Team
5 with access to any materials subject to the Protective Order.

6 IT IS SO ORDERED.

7
8 _____
DATE

UNITED STATES DISTRICT JUDGE